

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TECHNOLOGY PROPERTIES LIMITED and
PATRIOT SCIENTIFIC CORPORATION,

Plaintiffs,

v.

MATSUSHITA ELECTRIC INDUSTRIAL
CO; LTD; PANASONIC CORPORATION OF
NORTH AMERICA; JVC AMERICAS CORP.;
NEC CORPORATION; NEC ELECTRONICS
AMERICA, INC.; NEC AMERICA, INC.; NEC
DISPLAY SOLUTIONS OF AMERICA, INC.;
NEC SOLUTIONS AMERICA, INC.; NEC
UNIFIED SOLUTIONS, INC.; TOSHIBA
CORPORATION; TOSHIBA AMERICA,
INC.; TOSHIBA AMERICA ELECTRONIC
COMPONENTS, INC.; TOSHIBA AMERICA
INFORMATION SYSTEMS, INC.; and
TOSHIBA AMERICA CONSUMER
PRODUCTS, LLC,

Defendants.

Civil Action No. 2-05CV-494 (TJW)

**DEFENDANT ARM'S RESPONSE TO PLAINTIFFS' MOTION TO AMEND
PRELIMINARY INFRINGEMENT CONTENTIONS**

Defendants ARM, Inc. and ARM, Ltd. (collectively, "ARM") oppose Plaintiffs' motion to amend their preliminary infringement contentions (the "PICs Motion") because the PICs Motion has the potential to disrupt the Court's scheduled November 2007 trial date. ARM intervened in this lawsuit to protect its co-defendant licensees and to stop Plaintiffs' campaign against ARM's other licensees. Any delay in the trial schedule would merely spread unwarranted fear, uncertainty and delay to ARM's customers and licensees.

As is noted in the opposition submitted by other defendants, the PICs Motion could result in a substantial expansion of discovery against the other defendants.¹ Such a belated expansion of the case is fraught with the possibilities for discovery disputes. If Plaintiffs had timely brought this motion, then such disputes could be managed, but the lengthy delay creates potential problems as the trial date approaches.

Any delay in the trial schedule harms ARM. Outside this litigation, Plaintiffs have contacted hundreds of ARM's customers to make accusations of patent infringement. ARM believes such charges are unfounded but, unfortunately, Plaintiffs force ARM's licensees to sign non-disclosure agreements ("NDA's") preventing ARM from seeing the contents of Plaintiffs' allegations. These NDA's impede ARM's ability to address Plaintiffs' allegations of infringement. While Plaintiffs have produced some of the communications in discovery, ARM should not have to fight discovery battles to see communications sent to ARM's customers. ARM merely wants to defend itself and its customers against this unfair practice.

Delay thus becomes an advantage in Plaintiffs' licensing campaign. The longer Plaintiffs can delay adjudication, the greater the possibility that companies will accept licenses merely because of the fear, uncertainty and delay factor. Timely resolution as provided by the Court's existing schedule is the fairest manner in which to address Plaintiffs' infringement charges.

ARM offered to forego opposition to this motion if Plaintiffs would agree to: (1) not seek any delay in the trial schedule resulting from its new preliminary infringement contentions; and (2) release ARM's licensees from non-disclosure agreements so that ARM could respond

¹ It is uncertain what effect the PICs Motion will have on ARM's discovery burdens. ARM has already collected approximately 10,000,000 pages of documents responsive to Plaintiffs' document inquiries. ARM and the Plaintiffs are presently exploring ways to reduce this potential production to lessen the expense and burden on both sides.

and defend itself against these unfounded accusations of infringement. Plaintiffs refused to agree to not seek a delay in the trial date. This raises serious concerns.

Plaintiffs chose this district fully aware of this Court's procedures and efficient docket management. With the benefit of choosing the forum comes the responsibility of following the chosen court's procedures. Because Plaintiffs have confirmed the validity of ARM's concern regarding the potential for a slippage of the trial date, ARM respectfully opposes Plaintiffs' PICs Motion.

Respectfully submitted,



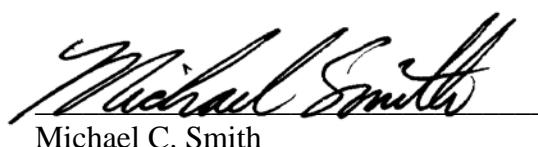
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Counsel for ARM Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) this 18th day of April, 2007. Any other counsel of record will be served by facsimile transmission and/or first class mail.



Michael C. Smith